**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

## W.A.No.436 of 2006(D)

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AGAINST THE JUDGEMENT IN W.P.(C).NO.4422/2006 DATED 15/02/2006

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APPELLANT: PETITIONER:-

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JAMEELA, W/O. PAKKRU,
HOUSE NO.19/432, HIINDI PRACHAR MANDAL ROAD,
IRINJALAKKUDA.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: RESPONDENTS:-

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1. STATE OF KERALA,
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   DEPARTMENT OF TAXES, TRIVANDRUM.

2. THE DISTRICT COLLECTOR, MALAPPURAM.

3. THE DEPUTY TAHSILDAR (R.R), ERNAD, MANJERI.

4. THE REVENUE DIVISIONAL OFFICER,
   PERINTALMANNA.

BY SPECIAL GOVERNMENT PLEADER (TAXES) SRI.V.V.ASHOKAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 04/06/2007
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

**H.L.Dattu,C.J. & K.T.Sankaran,J.**

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**W.A.No.436 of 2006-D**

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Dated, this the 4th day of June, 2007

**JUDGMENT**

**K.T.Sankaran,J.**

Exhibit P6 assessment order was passed under Section 5A of the Kerala Building Tax Act ("Act" for short). Exhibit P6 order was challenged in revision - Exhibit P9 - before the District Collector, wherein it is stated that an appeal was filed before the Revenue Divisional Officer and that it was dismissed. It is stated that Exhibit P9 revision is pending.

2. Meanwhile, proceedings for realisation of the amount assessed under Section 5A were initiated against the petitioner. Writ petition was filed at that juncture for the following reliefs:

> "(a) Call for the records leading to Ext.P8 and to quash the same by issue of a Writ of certiorari or any other Writ, Direction or Order.
>
> (b) Direct the 2nd respondent to consider Ext.P9 revision petition filed by the petitioner on merits and pass an order within a specified time limit.
>
> (c) Direct the 3rd respondent to keep in abeyance the entire proceedings pursuant to Ext.P8 till a decision is taken by the 2nd respondent on Ext.P9.
>
> (d) Issue such other further reliefs that this Hon'ble Court may deem fit and proper to grant in the interest of justice".

3. The learned Single Judge disposed of the writ petition directing the petitioner to remit the amount demanded under Exhibit P8 and further accruals thereon, in three equal monthly instalments, payable on or before 10th of every month, commencing from March 2006 as a condition for

dropping the distress action.

4. While admitting the Writ Appeal, this Court granted interim stay and the same continues till now. It is not disputed that Exhibit P9 revision petition is pending before the District Collector and it is not disposed of. There will be a direction to the District Collector to dispose of Exhibit P9 revision as expeditiously as possible. Till then, the revenue recovery proceedings initiated against the appellant for realisation of the luxury tax under Section 5A of the Act shall be kept in abeyance.

The Writ Appeal is disposed of as indicated above.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-